



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

October 21, 2003

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Substitute Amendment 1 to Senate Bill 214: Authorizing Licensed Individuals to Carry Certain Concealed Weapons

Senate Bill 214 would modify current law prohibitions on carrying a concealed weapon by authorizing licensed individuals to carry specified types of concealed weapons. The bill was introduced on July 22, 2003, and was referred to the Senate Committee on Judiciary, Corrections and Privacy. On October 13, 2003, the Senate Committee introduced and adopted Senate Substitute Amendment 1 (SSA 1) to Senate Bill 214, as well as Senate Amendment 1 (SA 1) to SSA 1 and Senate Amendment 2 (SA 2) to SSA 1. SSA 1, as amended by SA 1 and SA 2, was recommended for passage, on a vote of 3-2. On October 16, 2003, SSA 1, as amended, was referred to the Joint Committee on Finance.

SUMMARY OF THE SUBSTITUTE AMENDMENT

Counties to Issue Licenses

Required License Issuance by Counties. Each participating county, through its sheriff, would be required to issue licenses to carry a concealed weapon to those applicants who meet all of the eligibility requirements specified in SSA 1. Under this type of issuance procedure, Wisconsin would become a "shall issue" state, meaning that if the applicant satisfies all of the qualification requirements, the state, through its participating county sheriffs, must issue the individual a concealed weapons license.

County Opt-Out Provision. A county could avoid the requirement that its sheriff issue concealed weapons licenses to qualified applicants, if before the first day of the fourth month following the effective date of the legislation: (1) the sheriff requested his or her county board to

authorize the sheriff to decline to issue such licenses; and (2) the county board approved the sheriff's request by a two-thirds vote of all members. At any time, however, a county board could subsequently rescind this opt-out authorization by a two-thirds vote of all of its members. If a county board rescinds its opt-out authorization, the county sheriff would then be required to issue concealed weapons licenses to qualified applicants.

Multi-County License Issuance Agreements. Any two or more sheriffs, at any time, would be authorized to enter into an agreement for the joint issuance of concealed weapons licenses. Any such agreement would have to: (1) be in writing; (2) be approved by the county board of the county of each sheriff who is a party to the agreement; (3) specify how the licensing powers and duties governed by the agreement are to be allocated among the affected sheriffs; (4) specify how expenditures and revenues are to be apportioned among the affected sheriffs and counties; (5) designate one county as the county of issuance; and (6) provide for the renewal of any licenses that were separately issued by a sheriff before he or she entered into the multi-county agreement.

General Licensing Provisions

General Qualifications for Obtaining a License. In order to qualify for a concealed weapons license, the applicant would have to be a Wisconsin resident at least 21 years of age, who had successfully completed an approved firearm training or safety course or class or its substantial equivalent. In addition, the applicant could not be subject to any of the statutory disqualifying factors contained in the legislation.

In general, it would be the responsibility of county sheriffs to determine if applicants satisfied the eligibility requirements to obtain a concealed weapons license. The Department of Justice (DOJ) would be required to assist the sheriffs in this process by: (1) conducting background checks to determine an applicant's criminal background (including incompetency to stand trial and not guilty by reason of mental disease or defect findings); and (2) determining any pending civil or criminal cases involving an applicant that would disqualify the applicant from licensure. All individuals (with limited exceptions described below) would be subject to a background check by the Department. (This background check procedure is described below under the licensing-related responsibilities of DOJ.)

County sheriffs, however, would be solely responsible for ensuring that applicants were not disqualified from licensure as a result of many of the mental health and competency eligibility requirements. Table 1 summarizes the statutory eligibility factors for licensure, other than for age, state residency and firearms safety training. The eligibility determinations that are the responsibility of county sheriffs are indicated *in italics*. The other eligibility determinations are made by DOJ. (See Attachment 1 for a detailed summary of the concealed weapons licensure eligibility requirements under SSA 1.)

TABLE 1

**Eligibility Requirements a Concealed Weapon License
(Other than Age, Residency and Firearms Safety Training)**

<u>Eligibility Factor</u>	<u>Conditions Under Which Factor Would Not Apply</u>
Applicant Not Prohibited From Possessing a Firearm Under Federal or State Law	
<ul style="list-style-type: none"> The individual is not prohibited under federal or state law from possessing a firearm. 	
Applicant Not Subject to Disqualifying Criminal Charges or Conviction	
<ul style="list-style-type: none"> The individual has not been convicted under Wisconsin's Uniform Controlled Substances Act (Chapter 961), or a comparable federal law or law of another state. 	The conviction was more than three years ago.
<ul style="list-style-type: none"> The individual was not convicted of a misdemeanor crime of violence or was not serving a sentence, on probation, or subject to a dispositional order under Wisconsin's Juvenile Justice Code for such a crime. Misdemeanor crimes of violence are misdemeanor violations of: (a) Chapter 940 (crimes against life and bodily security); (b) Chapter 941 (crimes against public health and safety); (c) Chapter 948 (crimes against children); (d) s. 947.013 (harassment); or (e) s. 947.01 (disorderly conduct). 	The conviction was more than three years ago.
<ul style="list-style-type: none"> The individual has not been convicted of: (a) intentionally falsely swearing or making false statements on a regular or emergency concealed weapons license application; (b) intentionally failing to report a charge within 10 days of being charged under federal law or the law of another state with any crime or drunk driving offense, to the county sheriff who issued the person's concealed weapons license; or (c) intentionally failing to surrender a concealed weapons license to a sheriff when directed as a result of the revocation or suspension of the license. 	
<ul style="list-style-type: none"> The individual has not been charged with a felony or a misdemeanor crime of violence for which the prosecution was suspended under a deferred prosecution agreement. 	The date of the agreement was more than three years ago.

<u>Eligibility Factor</u>	<u>Conditions Under Which Factor Would Not Apply</u>
Applicant Not Disqualified Due to Substance Abuse	
<ul style="list-style-type: none"> <i>The individual has not been civilly committed under state law for being drug dependent.</i> 	The commitment was more than three years ago.
<ul style="list-style-type: none"> The individual does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. This condition applies if: (a) <i>the individual has been committed for involuntary treatment of alcoholism under state law</i>; (b) the individual has been convicted of operating or going armed with a firearm while under the influence of an intoxicant; or (c) in two or more cases arising out of separate incidents, a court has found the individual to have committed a drunk driving offense. 	The commitment or occurrence was more than three years ago.
Applicant Not Subject to Mental Health Disqualifier	
<ul style="list-style-type: none"> <i>The individual has not been involuntarily committed for treatment under state law due to mental illness or a developmental disability.</i> 	Individual shows, through evidence from a Wisconsin psychiatrist, that the disability due to mental illness or a developmental disability has not been present for at least five years.
<ul style="list-style-type: none"> <i>The individual has not been found incompetent under Chapter 880 of the statutes (Guardians & Wards)</i> 	Individual subsequently found to be competent and at least five years have elapsed since that finding.
<ul style="list-style-type: none"> <i>The individual was not the subject of a protective placement under state law as a minor for a developmental disability.</i> 	Five years have elapsed from the date on which the protective placement ended.
<ul style="list-style-type: none"> The individual has not been found incompetent to stand trial under state law. 	Individual subsequently found to be competent and one of the following applies: (a) at least five years have elapsed from that date; or (b) the individual shows through evidence from a Wisconsin psychiatrist that he or she has not been disabled due to mental illness or a developmental disability for at least five years.
<ul style="list-style-type: none"> The individual has not been found not guilty by reason of mental disease or defect under state law. 	Individual presents evidence from a Wisconsin psychiatrist that the disability due to mental illness or a developmental disability has not been present for at least five years.

<u>Eligibility Factor</u>	<u>Conditions Under Which Factor Would Not Apply</u>
Additional Eligibility Requirements	
<ul style="list-style-type: none"> <i>The individual does not have a physical disability that prevents him or her from safely handling a weapon.</i> 	
<ul style="list-style-type: none"> The individual is not the subject of any pending civil or criminal case, the disposition of which could disqualify him or her from having a license. 	
<ul style="list-style-type: none"> <i>The individual has not previously submitted an application for a concealed weapons license to any county and had the application denied, unless each reason for the denial is no longer applicable because of changed circumstances.</i> 	
<ul style="list-style-type: none"> <i>The individual has not had a concealed weapons license revoked, unless each reason for the revocation is no longer applicable because of changed circumstances.</i> 	
<p><i>Determination of the requirements in italics are the responsibility of the county sheriff. All other determinations are the responsibility of the Department of Justice.</i></p>	

With respect to the eligibility factors summarized in Table 1, a number of the disqualifying events would no longer apply after a certain amount of time had elapsed since the triggering event. It should be noted that under federal law, there is a permanent prohibition on the possession of firearms, if an individual has been committed for substance abuse or mental illness or has been found incompetent to handle his or her own affairs. These permanent federal disqualifications may supersede the application of some of the look-back provisions of SSA 1.

General Application Procedure. An individual would be authorized to apply for a concealed weapons license with any sheriff in the state participating in the licensure process. An applicant would be required to submit all of the following to the sheriff: (1) the required application form; (2) a photocopy of a certificate or other evidence showing that the applicant had completed the firearm training requirement; (3) a full-face photograph of the individual taken not more than 30 days before the date of application; and (4) all required fees.

Payment of the following fees would be required: (1) a license fee set by the issuing sheriff that could not exceed either the cost incurred by the sheriff to issue the license (including equipment costs), or \$75, whichever is less; (2) an \$8 firearms background check fee; (3) a \$15 shooting range improvement fee; and (4) a \$15 law enforcement excellence fund fee. Because the issuing fee established by the county sheriff would have to be based on the unique costs incurred in

each issuing jurisdiction, it is likely that this fee would vary by county throughout the state. To the extent that a county's issuing costs exceeded \$75 per license, the additional costs would have to be supported from county funds.

The \$8 firearms background check fee would be remitted to the state, while all the remaining fees would be credited to the county's general fund. Subject to the terms of any multi-county agreement to jointly administer a concealed weapons licensure program, county treasurers would be required to deposit the county revenues to the general fund of the appropriate county (or counties).

An applicant would be required to swear under oath that the information provided in the application and the related documents submitted with the application was true and complete to the best of the individual's knowledge. An intentional violation of this provision would subject the applicant to a fine of not less than \$500 nor more than \$10,000, and imprisonment for not more than nine months.

Duration of License. Barring suspension or revocation, a concealed weapons license would be valid for a period of five years from the date of issue. At least 90 days before the license expiration date, the issuing sheriff would have to mail an expiration notice to the licensee along with a renewal form. The sheriff would be required to renew the license, following a background check by the Department of Justice, if the licensee submitted all of the following before the expiration date: (1) a renewal application on the form provided by the sheriff; (2) a notarized, sworn affidavit that the renewal information was true and complete to the best of the applicant's knowledge and that all the eligibility requirements for licensure continued to apply; and (3) the same types of fees as required for initial licensure.

Where an individual's license had been expired for not more than six months, the applicant would also have to submit a \$15 late fee with the renewal application. Licenses not renewed before six months after the expiration date would be deemed permanently expired, and an individual wishing to be relicensed would then have to repeat the application process for an original license. No \$15 late fee would be required for such an application, however. The same penalties that apply for providing false information on an original license application would also apply to information provided for a renewal license application.

Right of Licensees to Carry Concealed Weapons

General Right of Licensee to Carry a Concealed Weapon. A licensee or an out-of-state licensee would be authorized to carry a concealed weapon anywhere in the state, subject to specifically enumerated limitations described below. SSA 1 would define an out-of-state licensee as an individual with a valid concealed weapons permit or license issued by another state who would not be prohibited from possessing a firearm under Wisconsin law or from possessing a firearm that has been transported in interstate or foreign commerce under federal law.

Places Where a Licensee Could Not Carry a Concealed Weapon. SSA 1 enumerates a variety of places where a duly licensed Wisconsin resident or out-of-state licensee would be

prohibited from knowingly carrying a concealed weapon. The places subject to this prohibition are identified in Table 2. In some cases, limited exceptions are provided to the general proscription.

TABLE 2

**Places in Which Wisconsin or Out-of-State Licensees
Would Be Prohibited from Carrying a Concealed Weapon**

Places Subject to Federal Prohibition

- Any place where carrying a concealed weapon is prohibited by federal law [within a federal facility; within or entering the sterile area of an airline terminal or aboard or while attempting to board an aircraft; within certain national park areas; and within a school zone (except firearms may be possessed on private property that is part of the school grounds; unloaded and within a locked container within a vehicle; by a law enforcement officer; by an individual for use in a program approved by the school; and by an individual while traversing school premises for the purpose of gaining access to a hunting area, if the entry on school grounds is authorized by school authorities)].

Airports

- Any airport. *[EXCEPTION: The weapon is encased for shipment as baggage to be transported by aircraft.]*

Judicial and Law Enforcement Related

- Sheriffs' offices, police or state patrol stations. *[EXCEPTIONS: Does not apply to law enforcement officers carrying a concealed weapon within the scope of their duties. Peace officers are further provided a blanket exemption from all the prohibitions summarized in this table.]*

- Prisons, jails, houses of correction or secured correctional facilities.

- Courthouses. *[EXCEPTION: A presiding, licensed judge may carry a concealed weapon and may authorize in writing any licensee to carry a concealed weapon in a courthouse in which the judge is presiding in court.]*

Schools and Related

- Places where a school, college or professional athletic event is taking place. *[EXCEPTION: Where an event is related to firearms and licensees are participating in the event.]*

- A school administration building.

- Within 1,000 feet of a public, private or parochial school that provides education for one or more grades (1 through 12). *[EXCEPTIONS: The licensee is not in or on the grounds of the school, and one or more of the following also applies: (1) the individual is in a motor vehicle or on a snowmobile or bicycle; (2) the individual has exited a motor vehicle and is encasing or storing the handgun in the motor vehicle; (3) the individual is traveling directly to any person's private property from work or place of business, from any person's private property, or from a place outside the school zone; (4) the individual is traveling directly to his or her work or place of business from another place of his or her work or business, from any person's private property, or from a place outside the school zone; (5) the individual is traveling directly to a place outside the school zone from another place outside the school zone, from any individual's private property or from his or her work or place of business; or (6) the individual's possession of a handgun is described by the following: (a) the handgun is on private property, not part of school grounds; (b) the person is licensed by the relevant state or federal authorities where the school zone is located and applicable law requires that law enforcement authorities must verify that the individual is qualified to receive a license; (c) the handgun is not loaded and is encased or locked into a firearms rack on a motor vehicle; (d) the handgun is used by an individual in a program approved by the subject school; (e) the handgun is used by an individual who is in a contractual arrangement between the subject school and the individual or employer of the individual; (f) the handgun is used by a law enforcement officer in his or her official capacity; and (g) the handgun is unloaded while in the possession of an individual who is traversing the school grounds to gain access to public or private hunting lands (if entry on the school grounds is authorized by school authorities).]*

Taverns

- Any tavern. *[EXCEPTIONS: The prohibition does not apply if: (1) the licensee is a peace officer or correctional officer while going armed in the line of duty; the licensee is a member of the U. S. armed forces or national guard while going armed in the line of duty; the licensee is a private security person (licensed by the Department of Regulation and Licensing, is going armed in the line of duty, and is acting with the consent of the tavern licensee, owner or manager); or the licensee is the tavern licensee, owner or manager or employee or agent of the foregoing who has been authorized to possess a handgun on the premises; (2) the handgun is unloaded and encased in a vehicle in any parking lot area; the handgun is possessed or used in connection with a public or private gun or sportsmen's range or club; the handgun is authorized for a specific event of limited duration by the owner or manager of the tavern; the handgun is used for decoration (provided it is encased, inoperable or secured in a locked condition); the possession of the handgun is in any portion of a hotel other than the portion of the hotel that is a tavern; the possession of the handgun is in any portion of a tavern/store combination that is devoted to the other business (provided the other business is owned or operated by a firearms dealer, the other business includes the sale of handguns and the handgun is possessed in a place other than a tavern; or (3) the sale of liquor or beer on the premises accounts for not more than 50% of receipts.]*

Public Nuisances

- Places declared public nuisances under ch. 823 of the statutes [unlicensed solid waste facilities or licensed facilities where a court finds a threat to public health and safety; bawdyhouses; disorderly houses; drug or criminal gang houses; unregulated gambling places; dilapidated buildings; and dilapidated wharves and piers in navigable waters]

Duty to Carry License Document. Wisconsin licensees and out-of-state licensees would be required to carry the appropriate Wisconsin license document or out-of-state authorization at all times during which the individual was going armed in the state with a concealed weapon. An out-of-state authorization would be deemed a valid permit or a valid license issued by another state documenting that the person was authorized under the law of that state to carry a concealed weapon in that state. Upon the request of a law enforcement officer, Wisconsin or out-of-state licensees carrying a concealed weapon would be required to present the relevant license document or out-of-state authorization to the law enforcement officer. A person violating these provisions could be required to forfeit not more than \$25.

Permissible Concealed Weapons

SSA 1 would authorized licensees to carry a handgun, an electric weapon, a tear gas gun, a knife (other than a switchblade), or a billy club as a concealed weapon. A "handgun" would be defined as any weapon designed or redesigned, or made or remade, and intended to be fired while held in one hand which used the energy of an explosive to expel a projectile through a smooth or rifled bore. A handgun would not include a machine gun, a short-barreled rifle, or a short-barreled shotgun.

Licensing and Related Responsibilities of County Sheriffs

Processing of Applications. Upon receiving an application, a sheriff in a participating county would generally be required to submit a request to the Department of Justice (DOJ) to conduct a background check to determine if the applicant would be ineligible for a license. This request would be submitted to DOJ by means of a toll-free telephone number maintained by the agency. The sheriff would be required to provide DOJ with the name, date of birth, gender, and race of the applicant. Upon receipt of this information by telephone for the background check, DOJ would provide the sheriff with a unique confirmation number. Where the applicant was: (1) a law enforcement officer; (2) a correctional officer; (3) a probation, parole, and extended supervision agent; or (4) a person with a current certification from the Law Enforcement Standards Board under s. 165.85(3)(c) [law enforcement, tribal law enforcement, jail or secured detention officers], a sheriff would be required to issue a concealed weapons license without requesting a firearms background check.

Determinations To Be Made by County Sheriffs. Although DOJ would assist the issuing sheriff with determinations relating to an applicant's criminal background or the pendency of civil or criminal matters that might disqualify the applicant from licensure, the issuing sheriff would be solely responsible for determining that applicants were not disqualified from licensure as a result of: (1) civil commitment during the preceding three years for drug dependence; (2) involuntary commitment within the preceding three years for treatment of alcoholism; (3) involuntary commitment for treatment due to mental illness or a developmental disability; (4) an incompetency finding under Chapter 880 (Guardians & Wards); or (5) protective placement as a minor for a

developmental disability unless at least five years have elapsed from the date the protective placement ended.

Under current law, these types of records are generally confidential. As currently drafted, SSA 1 would not authorize court officials or registers in probate to release these records to county sheriffs for the purpose of investigating the eligibility of applicants for licensure.

In addition, county sheriffs would also be solely responsible for ensuring that applicants were not disqualified from licensure as a result of: (1) physical disability that prevents the individual from safely handling a weapon; (2) failure to complete the firearm training requirement; (3) a previous submission of an application for a concealed weapons license to any county where the application was denied, unless each reason for the denial is no longer applicable because of changed circumstances; (4) previous revocation of the individual's concealed weapons license, unless each reason for the revocation is no longer applicable because of changed circumstances; (5) the applicant not being 21 years of age; or (6) the applicant not being a Wisconsin resident.

As drafted, SSA 1 does not provide issuing sheriffs with guidance with respect to applying a physical disability standard. While the legislation would require the applicant to make sworn statements with respect to previous unsuccessful license applications or license revocations, the absence of a statewide database on unsuccessful previous applications or license revocations may make it difficult for an issuing sheriff to verify these eligibility factors.

Issuance of Initial Licenses. Except for the issuance of emergency licenses (described below), a sheriff would be prohibited from issuing a license to any applicant until at least seven days had elapsed from the time that the sheriff received a confirmation number from DOJ regarding its receipt of the background check request. The seven-day time period is intended to provide DOJ with sufficient time to conduct and conclude most background checks. The full seven-day waiting period would not apply if DOJ notified the sheriff during the period that the background check did not indicate that the applicant was disqualified for a license under any of the criteria listed in Table 1 for which Justice is responsible. [While it would appear that this time limitation language should not apply to license issuances for the law enforcement and related personnel described above who are exempt from the background check, SSA 1 does not does not specifically provide for such an exemption.]

No later than 21 days after receiving an application, a sheriff would be required either to issue a concealed weapons license or to deny the application where the applicant failed to qualify under any of the statutory eligibility criteria. Where a sheriff issues a license, it would be mailed to the licensee by first class mail. Where a sheriff denies an application, the applicant would have to be advised in writing of the reason and factual basis for the denial, to the extent permitted under federal law. It should be noted that particularly in view of the likely first year application volume under any concealed weapons license program, sheriffs have expressed concern that the requirement that applications must be processed within 21 days may force them to prioritize application processing over other law enforcement duties.

A sheriff would be required to maintain the original of all completed application forms and a record of all confirmation numbers and corresponding approval or nonapproval numbers provided by DOJ relating to the background checks. A sheriff would also be required to mail a duplicate copy of each completed application form to DOJ. As described below under the licensing-related responsibilities of DOJ, this information would be used by the agency to verify the accuracy of the background check information previously reported by the sheriff by telephone.

Issuance of Emergency Licenses. Except where a sheriff knew that an applicant did not qualify for a license as a result of any of the statutory eligibility criteria (other than for meeting the firearm training or safety requirement), a sheriff would be authorized to immediately issue an emergency license to an individual, provided the sheriff also determined that immediate licensure was warranted to protect the individual from death or great bodily harm. A sheriff issuing an emergency license would also be authorized to waive all county and state fees, if requiring the individual to pay the fee would create a hardship for the applicant. SSA 1 does not establish a definition of what circumstances would create a hardship. Consequently, this standard could vary from county-to-county.

A sheriff issuing an emergency license would be required to notify DOJ and request an immediate background check. An emergency license would be valid for 120 days and could not be renewed. An individual issued an emergency license could also seek and obtain a regular license, in which case payment of all state and county fees would be required and could not be waived because of hardship. An emergency license would be void if the individual was subsequently issued a regular license.

If DOJ subsequently notified the sheriff that an individual issued an emergency license did not qualify for a license, the sheriff would be required to revoke it. Where an applicant intentionally made a false statement to a sheriff in requesting or in connection with the issuance of an emergency license, the applicant would be subject to a fine of not less than \$500 nor more than \$10,000, and imprisonment for not more than nine months.

Licensee Information Provided to DOJ. Within five days of issuing any concealed weapons license, the sheriff would be required to notify DOJ of that issuance and provide the agency with all of the following information from the license: (1) the full name, date of birth, and residence address of the licensee; (2) a color photograph of the licensee; (3) a physical description of the licensee, including gender, height, weight, and hair and eye color; (4) the date on which the license was issued; (5) the date on which the license expires; (6) the name of this state; (7) the name of the county that issues the license; and (8) a unique identification number for each licensee. DOJ's ability to compile and retain this information is described below under the description of the agency's licensing-related responsibilities.

Updated Licensee Information. Within 10 days of being charged under federal law or the law of another state with any crime or drunk driving offense, a Wisconsin licensee would be required to notify the sheriff of the county of issue of the charge. Any licensee who intentionally

violated this requirement would be subject to a fine of not less than \$500 nor more than \$10,000, and imprisonment for not more than nine months. No later than 30 days after an address change, a licensee would be required to inform the sheriff of the county of issue of the new address.

Licensee Information Provided to Other Law Enforcement Agencies. A sheriff issuing concealed weapons licenses would be required to provide information concerning a specific licensee to a law enforcement agency, but only if the agency was requesting the information for any of the following purposes: (1) to confirm the validity of a license produced by an individual at the request of a law enforcement officer; (2) to confirm that an individual holds a valid concealed weapons license in a situation where the individual was armed with a concealed weapon, was not carrying the required license, but claimed to hold one; or (3) to investigate whether an individual falsely swore in his or her concealed weapons license application, intentionally violated the requirement to provide updated information to the sheriff issuing the license within 10 days after being charged under federal law or the law of another state with any crime or any drunk driving offense, or intentionally made a false statement to a sheriff in connection with the individual's request for an emergency concealed weapons license.

License Revocation and Suspension. A sheriff would be required to revoke a license if an individual no longer met the statutory eligibility criteria for licensure (other than for age or the completion of the firearm training or safety course and pendency of a civil or criminal case, the disposition of which would render the individual ineligible for licensure). The sheriff's duty to suspend (rather than revoke) a license would also apply under any of the following circumstances: (1) the licensee was the subject of a pending civil or criminal case, the disposition of which would render the individual ineligible for a license; or (2) a court had prohibited the licensee from possessing a dangerous weapon as a condition of release while charged with a misdemeanor. Where a license had been suspended, the sheriff would be required to restore it if, upon disposition of the case, the person to whom the license had been issued continued to meet all eligibility criteria for licensure.

A sheriff's license revocation or suspension action would take effect immediately. Following either action, the sheriff would have one day to send the affected individual a notice by certified mail. Within seven days of receiving the notice, the affected licensee would be required to deliver the license personally or by certified mail to the sheriff. Any licensee who intentionally violated this requirement would be subject to a fine of not less than \$500 nor more than \$10,000, and imprisonment for not more than nine months.

License Expiration and Renewal. At least 90 days before the expiration date of a concealed weapons license, the issuing sheriff would be required to mail an expiration notice and a license renewal form to the licensee. Before renewing the license, the sheriff would be required to request a background check of the licensee by DOJ.

Lost or Destroyed Licenses. Within 30 days after the loss or destruction of a concealed weapons license, the affected licensee would be required to submit a notarized statement to the issuing sheriff that the license had been lost or destroyed. Following the receipt of the notarized

statement and a replacement license fee payment of \$15, the sheriff would be required to issue a replacement license. Where two or more sheriffs jointly administered a concealed weapons licensure program under a multi-county agreement, county treasurers would be required to deposit the replacement license fee revenues in the general fund of the applicable county.

Statistical Reports. Annually, by February 1, each issuing sheriff would be required to submit a statistical report to DOJ summarizing the county's concealed weapons licensing activities. The contents of the report would include the number of concealed weapons licenses applied for, issued, denied, suspended and revoked during the previous calendar year. For license denials, the report would have to indicate the reasons for the denials and the part of the application process where the reasons for denial were discovered. For license suspensions or revocations, the report would have to indicate the reasons for these actions.

Grants for Shooting Ranges. Each applicant for any concealed weapon license would be required to remit to the appropriate issuing sheriff a \$15 shooting range improvement fee (unless the fee is waived because of hardship for applicants for an emergency license). The fee would be credited to the county's general fund (or to the general fund of the appropriate county under the terms of a multi-county agreement). Utilizing these fees, an issuing sheriff would be required to award grants to persons for the construction or improvement of shooting ranges. Under SSA 1, any oversight role by the county board with respect to these funds is not specified.

Grant funds could be utilized to cover up to 50% of the cost of construction or improvement of a shooting range but could not be used for either the construction of clubhouses and facilities not essential to the operation of the shooting range or the costs of operation and maintenance of a shooting range. Shooting range grantees would be required to provide firearm safety instruction to potential concealed weapon licensees that would be sufficient to qualify them for licensure. The fee could not exceed \$20 per course.

In determining whether to make a shooting range grant, an issuing sheriff would be required to consider the potential of the project to meet the firearm safety instructional needs of the area served relative to the proposed cost of the shooting range construction or improvement.

Notification Responsibilities of Clerks of Court

Expanded Notification Requirement. Any clerk of a city, town, village, tribal or circuit court would be required to immediately notify DOJ of the name of any individual to whom any of the following legal or judicial actions occurred. The specific reason for the notification would also have to be provided. In general, these notifications would be of events that would tend to disqualify an individual who might seek licensing to carry a concealed weapon or would require the revocation of an issued license.

The notification requirement would be triggered if an individual was:

(1) Charged with: (a) a felony or a misdemeanor crime of violence; (b) a violation related to of the Uniform Controlled Substances Act; (c) providing falsely sworn information for the

issuance of a regular or emergency concealed weapons license, intentionally failed to provide updated information to an issuing sheriff concerning charges under federal law or the law of another state with any crime or any drunk driving offense, or intentionally failing to surrender a concealed weapons license to a sheriff when required under the provisions of SSA 1; (d) any other crime that, upon conviction, would disqualify the individual from having a concealed weapons license; (e) operating or going armed with a firearm while under the influence of an intoxicant; or (f) a drunk driving offense;

(2) Found by any court to have committed any offense described in (1)(a) through (f) above;

(3) Party to a deferred prosecution agreement whereby prosecution for a felony or a misdemeanor crime of violence was suspended;

(4) Subject to any of the following actions related to mental competency or disease: (a) a finding of incompetence in a criminal proceeding under state law; (b) a finding of not guilty of any crime by reason of mental disease or mental defect under state law; (c) involuntarily commitment for treatment under state law; or (d) a finding of incompetence under Chapter 880 (Guardians & Wards);

(5) Subject to a domestic abuse or child abuse injunction or ordered not to possess a firearm as a part of a harassment injunction; or

(6) Prohibited from possessing a dangerous weapon by a court as a condition of release on a misdemeanor charge.

For purposes of these notification requirements, a misdemeanor crime of violence would be deemed a: (1) misdemeanor violation of Chapter 940 (crimes against life and bodily security), Chapter 941 (crimes against public health and safety), Chapter 948 (crimes against children), s. 947.013 (harassment) or a violation of s. 947.01 (disorderly conduct); or (2) a crime under federal law or the law of another state that would be comparable to one of these crimes.

Under current law, the files and records of involuntary commitment court proceedings for treatment due to mental illness, developmental disability, or substance abuse are generally closed records as are all court records relating to Chapter 880 (Guardians & Wards) findings of incompetency. SSA 1 would specify that the privileged status of these records and files would not apply with respect to clerks of court providing notification to DOJ to advise an issuing sheriff if a concealed weapons licensee was the subject of such a notice. For purposes of background checks, SSA 1 would not permit the release of this information to either sheriffs or DOJ. This could preclude sheriffs from carrying out the required background investigation.

Under current law, registers of probate, rather than clerks of court, track data on commitment and competency proceedings. Consequently, the clerks of court would generally not have such information to provide to DOJ or to participating sheriffs.

It should also be noted that clerks of court have expressed concern regarding the requirement under SSA 1 that they provide "immediate" notification of these court events to DOJ. Given their other responsibilities that they must also attend to, they have expressed the opinion that "prompt notification" would be more workable.

Disclosure to DOJ of Firearms Restrictions Made a Part of Involuntary Commitment Orders. Clerks of court would be required to provide notice to DOJ of any firearms restrictions made a part of an involuntarily commitment order so that this information would be available for the agency's concealed weapons license background check responsibilities. No other information from the individual's court records could be disclosed to DOJ, except by order of the court, and DOJ could only disclose the released information as a part of a concealed weapons license background check or to notify an issuing sheriff if a concealed weapons licensee was subject to such a firearms restriction.

Under current law, if a court prohibits an individual who was subject to involuntarily commitment from possessing a firearm or subsequently cancels this prohibition after the expiration of the commitment order, the clerk of court must notify DOJ of these facts and provide such identifying personal information that DOJ may conduct an accurate firearms restrictions record search. (Currently, DOJ conducts such a search before the completion of handgun sales in the state to determine whether the purchaser may possess a handgun under Wisconsin law.) No other information from the individual's commitment records may be disclosed to DOJ, except by order of the court, and DOJ may only disclose the released information as a part of a firearms restrictions record search. The changes under SSA 1 would establish parallel records disclosure provisions for involuntary commitment information needed for concealed weapons license background checks.

Domestic Abuse, Child Abuse and Harassment Injunctions. Clerks of court would generally be required to provide notice to DOJ of the existence of any such injunctions so that this information would be available for the agency's concealed weapons license background check responsibilities. DOJ could only disclose the released information as a part of a concealed weapon license background check or to notify an issuing sheriff if a concealed weapons licensee was subject to such an injunction.

Under current law, an individual (other than a peace officer) subject to a domestic abuse or child abuse injunction is not permitted to possess a firearm. Similarly, if a judge or circuit court commissioner issues a harassment injunction and determines, based on clear and convincing evidence presented at a hearing on the issuance of an injunction, that the subject of the harassment injunction may use a firearm to cause physical harm to another or to endanger public safety, the judge or court commissioner may prohibit the individual from possessing a firearm. In either case, if injunctions are issued or extended, the clerk of circuit court must notify DOJ and provide such identifying personal information that DOJ may conduct an accurate firearms restrictions record search. DOJ may only disclose the released information as a part of a firearms restrictions record search. These changes under SSA 1 would establish parallel records disclosure provisions for domestic abuse, child abuse, and harassment injunction information needed for concealed weapons license background checks.

Delinquency Adjudications. Clerks of court would be required to provide notice to DOJ of instances where a juvenile is adjudged delinquent for acts that would be a felony if committed by an adult so that this information would be available for the agency's concealed weapons license background check responsibilities. No other information from the juvenile's court record could be disclosed by DOJ, except by court order, and DOJ could only disclose the released information as a part of a concealed weapons license background check or to notify an issuing sheriff if a concealed weapons licensee had been adjudicated delinquent for such an act.

Similarly, clerks of court would be required to provide notice to DOJ of instances where a juvenile is adjudged delinquent for an act that would be a misdemeanor crime of violence if committed by an adult. If an individual who had been adjudicated delinquent as a juvenile for a misdemeanor crime of violence subsequently applied for a concealed weapons license, DOJ would be authorized to review the relevant court records relating to the case to determine whether the matter would be sufficient to disqualify the individual for purposes of a concealed weapons license. DOJ could only disclose this released information as a part of a concealed weapons license background check or to notify an issuing sheriff if a concealed weapons licensee was adjudicated delinquent for an act qualifying as a misdemeanor crime of violence.

Under current law, juvenile delinquency records are generally not open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction. Under current law, however, if a juvenile is adjudged delinquent for an act that would be a felony if committed by an adult, the court clerk must notify DOJ of that fact. No other information from the juvenile's court records may be disclosed to DOJ except by order of the court. DOJ may only disclose the released information as a part of a firearms restrictions record search.

Responsibilities of the Department of Justice

Initial Design of the Concealed Weapon License Document and Related Forms. DOJ would be required to design a single license document, an application form, a notice of expiration form, and a renewal form for concealed weapons licenses. SSA 1 would require that the agency complete the design of the license document no later than first day of the fourth month beginning after the effective date of the legislation and distribute the design for the license document to any sheriff who issues concealed weapons licenses. The design of the application form would have to be designed and distributed within the same timeframe, while the renewal form would have to be designed and distributed no later than first day of the 54th month beginning after the effective date of the legislation.

The license document would be required to contain all of the following information on one side: (1) the full name, date of birth, and residence address of the licensee; (2) a color photograph of the licensee; (3) a physical description of the licensee, including gender, height, weight, and hair and eye color; (4) issuance date; (5) expiration date; (6) the name of this state; (7) the name of the issuing county; and (8) a unique identification number for each licensee that would begin with a unique code number for the issuing county as established by DOJ. The license document could not include the licensee's social security number. SSA 1 directs that the contents of the license document be included in substantially the same way as the contents of an operator's license issued

by the Department of Transportation. A concealed weapons license would have to be tamper proof, to the maximum extent possible.

The application and renewal forms would require the applicant to provide his or her name, address, date of birth, race, gender, height, weight, and hair and eye color, as well as all of the following: (1) a statement that the applicant is eligible for licensure (meaning that none of the statutory disqualifications to licensure apply); (2) a statement explaining the privilege of self-defense and defense of others under state law, with a place for the applicant's signature to indicate that the statement has been read and understood; (3) a statement that the applicant has received a copy of the state statute relating to concealed weapons licensure, with a place for the applicant's signature to indicate that the applicant has read and understands the requirements of the law; (4) a statement that the application is being made under oath and that prosecution may follow if the applicant has given a false answer to any question or has submitted a falsified document with the application; and (5) a statement of the penalties to which the applicant would be liable for such violations.

Background Checks. DOJ would be required to conduct background checks when requested by sheriffs participating in the licensure program. The Department would be required to utilize the following procedure in conducting these background checks: (1) provide the requesting sheriff with a unique number confirming receipt of the name, date of birth, gender, and race of the applicant; (2) search the transaction information for management of enforcement (TIME) system and the national crime information center system; and (3) notify the requesting sheriff, either during the initial telephone call or as soon thereafter as practicable, of the results of the background check. DOJ would be required to conduct the check immediately if the sheriff informed the Department that the search was for an emergency license application.

If the background check indicated that the applicant did not qualify for a license, DOJ would be required to issue the sheriff a unique nonapproval number. DOJ would be required to disclose to the sheriff the reason for the denial. If the check did not indicate that the applicant was disqualified for a license, DOJ would be required to issue the sheriff a unique approval number.

Where the background check indicated either that the applicant was the subject of a criminal charge for which there was no recorded disposition or, in the case of a previous misdemeanor delinquency adjudication, there was no record of how long the resulting dispositional order was in effect, the seven-day time period for DOJ to conduct the background check would be extended by an additional 72 hours, provided the original seven-day time period had not yet expired. DOJ would be required to notify the sheriff of the extension as soon as practicable. During the extended period, DOJ would be required to make all reasonable efforts to obtain the missing information and would be required to notify the sheriff of the results of its efforts as soon as practicable.

The Department would generally be required to charge a sheriff a fee of \$8 for each background check. This fee would be passed on by the sheriff to the applicant. The agency would be required to waive this fee for an applicant applying for an emergency license, if the sheriff waived the fee on hardship grounds. County treasurers would be required to forward all such fee revenue to the state treasurer. These revenues would be credited to the state's general fund.

Participating sheriffs would be required to forward all duplicate license application forms to DOJ and the agency would be required to check the information on each such duplicate form received against the information initially recorded from the original background check request telephoned by the sheriff to the agency. If DOJ had previously provided a unique approval number regarding the request and the duplicate completed application form indicated that the applicant was not qualified for a license, the Department would be required to immediately notify the issuing sheriff, and the sheriff would be required to revoke the license.

Duty to Notify Sheriffs of Certain Clerk of Court Notifications. DOJ would be required to process all notifications received from clerks of court relating to legal and judicial actions that would serve to disqualify a concealed weapon licensee from continuing licensure (described in the previous section). DOJ would be required to determine whether individual who was the subject of the notification was a licensee, and, if so, the agency would be required to immediately notify the issuing sheriff of the individual's name and the basis for the notification.

Licensee Information Provided to Other Law Enforcement Agencies. DOJ would be required to provide information concerning a specific licensee to a law enforcement agency, but only if the agency was requesting the information for any of the following purposes: (1) to confirm the validity of a license produced by an individual at the request of a law enforcement officer; (2) to confirm that an individual holds a valid concealed weapons license in a situation where the individual was armed with a concealed weapon, was not carrying the required license, but claimed to hold one; or (3) to investigate whether an individual falsely swore in his or her concealed weapons license application, intentionally violated the requirement to provide updated information to the sheriff issuing the license within 10 days after being charged under federal law or the law of another state with any crime or any drunk driving offense, or intentionally made a false statement to a sheriff in connection with the individual's request for an emergency concealed weapons license.

Maintenance of Records. Where the Department had previously provided a unique approval number regarding a sheriff's background check request and nothing in the duplicate completed application form submitted by the sheriff indicated that the applicant was not qualified for a license, DOJ would generally be required to destroy all records relating to that background check within 30 days after receiving the duplicate form. DOJ would be authorized to maintain records necessary to administer the concealed weapons program. Further, after a period of not more than three years from the date of the issuance of unique approval numbers, the Department would be required to destroy the associated log of dates of requests for those background checks, together with the confirmation numbers and unique approval and nonapproval numbers corresponding to those dates.

Within five days of issuing a concealed weapons license, a sheriff would be required to notify DOJ of the license issuance and provide the Department with the information required on the license document: (1) the full name, date of birth, and residence address of the licensee; (2) a color photograph of the licensee; (3) a physical description of the licensee, including gender, height, weight, and hair and eye color; (4) the date on which the license was issued; (5) the date on which the license expires; (6) the name of this state; (7) the name of the county that issues the license; and (8) the unique identification number for each licensee.

DOJ would be required to maintain a computerized record listing the names of all individuals issued a concealed weapons license along with the above information. The Department would be prohibited from storing, maintaining, formatting, sorting, or accessing this information in any other way other than by the name of the licensee or the identification number assigned to the licensee.

Statistical Reports. Annually, by March 1, DOJ would be required to submit a statistical report to the Legislature and to the Governor compiled from the annual reports filed by issuing sheriffs. The DOJ report would have to indicate the number of concealed weapons licenses applied for, issued, denied, suspended and revoked during the previous calendar year. For licenses denied, the report would have to indicate the reasons for the denials and the part of the application process in which the reasons for denial were discovered. For licenses suspended or revoked, the report would have to indicate the reasons for the suspensions and revocations.

Appeals of License Denials, Revocations or Suspensions

An individual would be authorized to appeal any denial of an application for licensure to carry a concealed weapon or the suspension or revocation of a license directly to the circuit court of the issuing sheriff's county (or the circuit court of the designated county of issuance in the case of multi-county agreements). The appeal would be initiated by the affected individual with the filing of a petition for review with the clerk of the applicable circuit court within 30 days of the date of the application denial or the sheriff's action to suspend or revoke a license.

The petition would have to state both the substance of the sheriff's action being appealed and the grounds upon which the individual believed the sheriff's action to be improper. The petition could include a copy of any records or documents deemed relevant by the individual to the substance of the appeal.

A copy of the petition would have to be served on the sheriff either personally or by registered or certified mail no later than five days after the person filed the petition with the court. The sheriff would be required to file an answer within 15 days. The sheriff's answer would have to include a brief statement of the actions taken by the sheriff, and a copy of any documents or records on which the sheriff based his or her action.

A court would be required to review the petition, the answer, and any records or documents submitted with the petition or the sheriff's answer. A court would be required to conduct this review without a jury. The court's review would have to be confined to the petition, the sheriff's answer, and any records or documents submitted, except that in cases of alleged irregularities in procedure by the sheriff, the court could take such testimony as the court deems appropriate.

The court would be required to affirm the sheriff's action, unless the court found that the sheriff had: (1) failed to follow the required procedures established under the legislation; (2) erroneously interpreted a provision of law and a correct interpretation compelled a different action; or (3) depended on a finding of fact that was not supported by substantial evidence in the record.

The court would be required to provide in its decision whatever relief was appropriate, regardless of the original form of the petition.

Modifications to Criminal Penalties Relating to Concealed Weapons

SSA 1 would modify existing criminal penalties or create new criminal penalties with respect to carrying concealed weapons in the state. These penalty changes are summarized in Attachment II.

Law Enforcement Excellence Fund

In counties where the sheriff issues concealed weapon licenses, the county board would be required to establish a law enforcement excellence fund. The fund would be supported by a \$15 fee for this purpose, paid by applicants for an original or renewal license (or for an emergency license, if the fee is not waived for reasons of hardship). Subject to the terms of any multi-county agreement to jointly administer a concealed weapons licensure program, county treasurers would be required to deposit all law enforcement excellence fund fee revenues into the fund. Payments would be made from the fund to improve law enforcement services in the county. Such funds could not be used to supplant or replace other funds otherwise available to the sheriff.

Public Access to Records

Under SSA 1, the public would have access to the annual statistical reports created by participating sheriffs and by DOJ. All other records kept by participating sheriffs and by DOJ relating to any other aspect of the concealed weapon licensure program would not be available for public inspection under the state's open records law.

Immunity from Liability

SSA 1 would establish that DOJ and its employees and participating sheriffs and their employees would be immune from liability arising from any act or omission in the administration of the concealed weapons licensure program, if done in good faith. A person providing firearm safety or training instruction in good faith to a licensee would also be immune from liability arising from any act or omission related to the course or class. Clerks of court have expressed concern that court officials do not receive a similar immunity from liability under the bill.

General Effective Date

All of the provisions of SSA 1, as amended, would take effect immediately on the day following publication. A sheriff receiving an application on the day following publication would be required to approve or deny that application within 21 days. Given the need for initial equipment

purchase, procedures development, employee training and the actual processing of a likely initial surge in applications, it could prove difficult for county sheriffs to meet this requirement.

SENATE AMENDMENT 1

Further Exemption from the General Right to Carry a Concealed Weapon Anywhere in the State. SA 1 to SSA 1 would create a further exception to those already included in the legislation [see Table 2] to the general right to carry a concealed weapon anywhere in the state. It would provide that an individual would be subject to a forfeiture if, while going armed with a concealed weapon, the individual entered or remained at a residence or a nonresidential building that the individual did not own or occupy after the owner of the residence or building, if he or she had not leased it to another person, or the occupant of the residence or building had notified the individual not to enter or remain at the residence or building while going armed with a concealed weapon or with that type of concealed weapon. The forfeiture could not exceed \$1,000.

A residence (single-family) would include all of the premises, while a residence (other than a single family) would not include any common area of the building in which the residence was located. Further, this provision would not apply to a part of a nonresidential building occupied by the state or one of its subdivisions or to any part of a nonresidential building used for parking.

Under SA 1, an owner or occupant of a part of a nonresidential building would be considered to have provided notice to an individual not to enter or remain there with a concealed weapon, if the owner or occupant had done all of the following: (1) posted a sign at least 11 inches square with such a notice located in a prominent place near the primary entrance to that part of the nonresidential building to which that restriction applies; and (2) personally and orally notified the individual of the restriction.

Immunity from Liability for Additional Parties. SA 1 would specify that a business or nonprofit organization that permitted a person to carry a concealed weapon on property owned or occupied by the business or organization would be immune from any liability arising from its decision to do so, if done in good faith.

SENATE AMENDMENT 2

Private Employer Restriction. SA 2 to SSA 1 would create a further exception to those already included in the legislation [see Table 2] to the general right to carry a concealed weapon anywhere in the state. SA 2 would specify that a private employer could prohibit a Wisconsin or out-of-state licensee that it employs from carrying a concealed weapon in the course of employment. However, a private employer could not prohibit such a licensee, as a condition of employment, from carrying a concealed weapon in the licensee's own motor vehicle, regardless of whether the motor vehicle would be used in the course of employment.

Immunity from Liability. SA 2 would also provide that a private employer that permitted any of its employees to carry a concealed weapon in the course of employment would be immune from any liability arising from its decision to do so, if done in good faith.

FISCAL EFFECT

The proposed legislation would have expenditure and revenue implications for both the state and for counties issuing licenses to carry a concealed weapon. Senate Substitute Amendment 1 to Senate Bill 214 does not appropriate funding to any state agency for the purpose of implementing the concealed weapons licensure program at the state level or provide position authorizations for that purpose.

Department of Justice

The Department of Justice (DOJ) would be charged with the following additional responsibilities under the legislation.

Background Checks. Under SSA 1, DOJ would generally be required to conduct a background check at the request of an issuing county sheriff for every applicant seeking a concealed weapons license. Based upon the agency's review of concealed weapons programs in Washington, Iowa and Minnesota, DOJ has assumed that during the first year of a concealed weapons program approximately 35,000 requests from county sheriffs for background checks would be received. While the Department projects that 35,000 individuals might apply for licensure during the first year, it estimates that the number of applicants applying statewide in subsequent years could drop to 20,000 annually.

The Department's fiscal estimate states that the increased workload associated with these background checks would require an additional 4.0 criminal history specialists. The Department estimated the total first year cost of these positions to be \$179,600, including: (1) \$116,200 annually in salary and fringe costs; (2) \$43,400 in one-time supplies and services start-up costs; and (3) \$20,000 annually in ongoing supplies and services costs.

The following observations may be made with respect to the Department's estimate. First, \$10,850 per criminal history specialist is projected for one-time supplies and services costs and \$5,000 per criminal history specialist is projected for annual, ongoing supplies and services costs. For budgeting purposes, the state has developed a standard one-time supplies and services cost estimate and standard annual, ongoing supplies and services cost estimates that are typically applied when budgeting for additional positions, unless special circumstances warrant otherwise. Under these standards, these positions would typically require \$6,500 each for one-time supplies and services costs (\$4,000 for a workstation and \$2,500 for a personal computer) and \$1,200 each for annual ongoing supplies and services costs. On the basis of these standards, the first year supplies and services cost estimate for the 4.0 positions might be reduced by \$32,600.

It should be noted, however, that the Department views these standards as inadequate to cover the actual supplies and services costs that would be associated with creating these additional positions. In particular, the Department estimates that it would incur \$9,150 in charges for each background check workstation created and indicates that a number of ongoing costs for items like training and rent are not appropriately captured in the state developed standard supplies and services figures.

Second, based upon a review of Kentucky's concealed weapons program (a state with a comparable population with a law authorizing persons who are 21 or older to carry concealed weapons), if all 72 Wisconsin counties participated, county sheriffs could receive 37,800 applications in the first year of the program and 14,500 applications annually in succeeding years of the program. If these projections prove accurate, DOJ could receive somewhat more first year applications than the agency originally estimated, and fewer applications thereafter than originally estimated. While the projected higher volume of application requests could put increased pressure on the Department to retain additional staff in the first year of the program (thereby increasing costs), a reduction in the out-year application volume would suggest that a smaller staff complement could handle the additional workload. Typically, when new programs are being started, the state does not provide permanent staffing allocations based on a short-term increased workload volume, but instead provides limited-term or project assistance until more reliable workload experience has been generated. If the Department were to utilize project or limited-term employees during the first year or two of the program, the agency's near-term salary and fringe benefits costs might be reduced, and future, permanent staffing could be provided, based on actual workload needs.

Providing Information on Licensees. SSA 1 would require DOJ to provide information concerning a specific licensee to a law enforcement agency if the agency requested the information for certain statutorily-specified purposes. In order to address this requirement, DOJ assumed that it would need to staff its call center around the clock. Currently, the center is staffed from 9 a.m. to 9 p.m. Monday through Friday and from 9 a.m. to 5 p.m. on Saturday and Sunday. The Department estimates that it would need an additional three criminal history specialists to provide an additional 92 hours per week of coverage. The Department estimated the total first year cost of these positions to be \$136,600, including: (1) \$89,000 annually in salary and fringe; (2) \$32,550 in one-time supplies and services costs; and (3) \$15,000 annually in ongoing supplies and services costs.

As discussed earlier, if standard one-time and ongoing supplies and services costs were utilized, the estimated supplies and services needs for these positions could be reduced. In addition, if DOJ simply responded to these requests from law enforcement agencies during its current hours of call center operation, the cost of these additional positions could likely be avoided. However, law enforcement efforts could be furthered if the Department extended the hours of call center operation. If an individual was thought to be illegally carrying a concealed weapon, law enforcement personnel would be assisted if an immediate verification of the individual's status could be determined by a call at any time to the call center.

Under current law, law enforcement agencies across the state have access to the transaction information for management and enforcement (TIME) system. The TIME system gives law enforcement agencies access to information regarding: state and national wanted, missing and unidentified persons; stolen motor vehicles; identifiable stolen property; driver and vehicle registration data; and state and national criminal history record information. DOJ has advised that if it were authorized to allow law enforcement agencies access to its concealed weapons licensee database on the TIME system, the development of this alternative on-line automated system would cost approximately \$20,000. The Department indicates that such a system would permit it to forego the cost of the three additional criminal history specialists identified above.

Processing Notifications from Clerks of Court. Under SSA 1, any clerk of circuit court as well as any clerk of court for a federally-recognized American Indian tribe or band in this state, a city, a village, or a town would be required to immediately notify DOJ of the name of any individual to whom a legal or judicial action had occurred that would tend to disqualify an individual who might seek licensing to carry a concealed weapon or would require the revocation of an issued license. The specific reason for the notification would also have to be given.

According to information provided by DOJ, clerks of court in the state recorded 134,064 offenses in 2001 that could disqualify an individual from possessing a concealed weapons license, if the individual was ultimately convicted of the offense. Of those charged with these offenses, 56,252 were convicted in 2001. Based on these figures, the Department estimated that in a given year at least 190,300 notices would be received from the clerks of court. Each such charge or conviction notice would be called in to the Department or reported separately.

DOJ estimates that each such contact would require five minutes to process, which would translate into 15,860 hours of staff time annually. The Department estimates that 9.0 criminal history specialists would be required to address this additional workload. The Department estimated the total first year cost of these positions at \$404,000 (\$261,400 for salaries and fringe benefits, \$97,650 for one-time supplies and services costs, \$45,000 for ongoing supplies and services).

Applying standard one-time and ongoing supplies and services costs for these positions, an estimated \$73,350 in supplies and services costs might be saved in the first year (\$39,150 in one-time supplies and services costs and \$34,200 in annual ongoing supplies and services costs). Additionally, DOJ assumed that each relevant charge or conviction would be processed as a separate transaction by both the reporting clerks of court and by the Department. Since many individuals are charged with multiple counts and are subsequently convicted of multiple counts, there would likely be reporting and processing efficiencies.

Notwithstanding this likelihood, an examination of the Consolidated Court Automation Programs (CCAP) system has determined that in calendar year 2002 there were a total of 263,306 court events that could have triggered the clerk of court notification requirement under SSA 1. These events included: (1) 141,270 felony, misdemeanor crime of violence and drug offense charges; (2) 55,668 felony, misdemeanor crime of violence and drug offense charges for which the

court found the defendant to have committed the offense; (3) 32,576 drunk driving offenses; (4) 14,144 drunk driving offenses for which the court found the accused to have committed the offense; (5) 3,965 charges for which a court ordered a suspension of the charge under a deferred prosecution agreement; (6) 0 cases in which a defendant was found not guilty by reason of mental disease or mental defect; and (7) 15,683 mental commitment case filings. [The deferred prosecution agreement and mental commitment case filings may be overstated as CCAP currently tracks a broader category of "deferred agreements," which include not only deferred prosecution agreements but also agreements deferring sentencing after trial. In addition, CCAP does not currently track mental commitment cases under Chapter 51 based on whether they are cases under s. 51.20 or s. 51.45. Such a determination would be relevant under SSA 1].

This likely annual number of reportable court events may be even higher than the 263,306 events reported on CCAP. This is because: (1) municipal courts do not report drunk driving citations and convictions to CCAP; (2) American Indian tribes or bands do not report case information to CCAP; (3) Walworth County was not reporting court case data to CCAP in 2002; and (4) Portage County did not report criminal case data to CCAP in 2002.

Further, CCAP cannot currently provide information on any of the following: (1) incompetency findings under Chapter 880 (Guardians & Wards); (2) individuals subject to domestic and child abuse injunctions and harassment injunctions where an individual is ordered not to possess a firearm; and (3) instances where an individual is prohibited from possessing a dangerous weapon by a court as a condition of release on a misdemeanor charge.

Since it is likely that DOJ would receive in excess of 263,000 reportable court events annually from court clerks, this higher volume would put upward pressure on DOJ's cost estimate for processing these notifications. The Department has not fully explored the costs or the associated economies that might result if this clerk of court reporting function were automated as part of the current CCAP reporting system.

Information Technology Costs. A number of the provisions of SSA 1 would impact information technology systems in the Department. DOJ estimates that it would incur \$241,000 in hardware and associated software costs to permit it to: (1) develop and store the computerized listing of individuals issued concealed weapons licenses; (2) maintain for a period of not more than three years after DOJ issues a unique approval number, a log of dates of requests for background checks under the concealed weapons program, together with confirmation numbers and unique approval and nonapproval numbers corresponding to those dates; and (3) conduct expanded background searches on all concealed weapons license applicants. [The Department's estimate assumes the purchase of a new data server (\$118,000) as the availability of a suitable used database server cannot be assured. The Department has indicated that if a suitable used database server was available, an estimated \$78,000 might be saved.]

DOJ projects that 1,000 hours of contract staff programming time at \$75 an hour (\$75,000) would be required to complete the initial web and database development for this system, and that a further 640 hours of contract staff programming time at \$200 an hour (\$128,000) would be required

to complete needed TIME system development. [The TIME system gives law enforcement agencies access to information regarding: state and national wanted, missing and unidentified persons; stolen motor vehicles; identifiable stolen property; driver and vehicle registration data; and state and national criminal history record information.]

A web-based system would permit multiple users to access the system and could allow the future development of such features as enabling local law enforcement agencies to search the concealed weapons licensee database through the TIME system to determine if individuals are valid holders of a concealed weapons license. The Department initially indicated that contract staff would be required to carry out this programming, as IT staff at the Department are currently facing a significant project backlog. The agency indicates that the use of a project position to undertake the programming tasks required under SSA 1 might reduce estimated costs by \$12,900.

Prior to the transfer of a handgun under current law, DOJ is required to complete a firearms restrictions record search to determine if the individual is permitted to possess the handgun under state and federal law. Under the substitute amendment, the Department would generally be required to conduct an expanded background check on applicants, ensuring that they meet specified requirements for licensure. The TIME system programming identified above would permit the Department to develop new queries of the TIME system to permit it determine if an applicant was found to have committed drunk driving offenses in Wisconsin and other jurisdictions that would disqualify the applicant from licensure, as well as to search for parallel misdemeanor violations of Chapter 961 (Uniform Controlled Substances Act) in other jurisdictions.

In addition, there may be some additional misdemeanor offenses that are not currently tracked by DOJ in its criminal history database, but which would disqualify an applicant from licensure under the substitute amendment. To the extent that this becomes an issue, the Department has indicated that additional programming and CCAP interfaces would be required to permit Justice to complete background checks regarding these possible disqualifiers. The cost to complete this work is not included in the above estimates.

In addition to the costs identified above, DOJ estimates that it would incur approximately \$32,000 in annual maintenance costs if this system were developed. The Department has advised that all of the IT costs identified here could be increased or decreased by as much as 20%, depending on the complexities of the various processes that would have to be reprogrammed.

Revenue and Expenditure Authority. As discussed below, if all 72 Wisconsin counties participate in the concealed weapons licensure program, county sheriffs could receive 37,800 applications in the first year of the program and 14,500 applications annually in succeeding years of the program. Under SSA 1, DOJ would charge issuing sheriffs \$8 for each background check requested. This fee would be collected by the sheriffs from concealed weapons license applicants. Assuming that a background check was provided and a fee collected for each applicant, it is estimated that the DOJ background check fee would generate \$302,400 in revenue in the first year of the program and \$116,000 in annual revenue in succeeding years. Because no appropriation

account is created under DOJ for the receipt of these revenues, these monies would be credited to the general fund.

No appropriation, associated expenditure authority or position authorizations are provided to the Department under SSA 1. The agency has indicated that it could not undertake the new program responsibilities required by SSA 1 without additional resources. In the absence of additional resources, passage of this legislation would require the agency to reallocate GPR funding and realign or reduce current GPR-funded functions, or seek additional funding through subsequent legislative action, in order to administer the concealed weapons program.

Estimated Local Impact

Additional County Sheriff Personnel Costs. The DOJ fiscal estimate of likely local costs assumed that during the first year of a concealed weapons program county sheriffs would receive approximately 35,000 applications for licensure. The agency assumed that each application would require, on average, one hour of staff time by employees of the sheriffs' offices, resulting in an aggregate statewide workload increase of approximately 35,000 hours. DOJ then applied an average employee productivity standard of 1,560 hours per year to determine that an aggregate workload increase in all counties of 35,000 hours would require the equivalent of 22.4 additional employees statewide to manage these first-year licensing activities.

Further, DOJ assumed that the additional workload would be processed by deputy sheriffs. Based on estimated salary and fringe benefits costs for an entry level deputy sheriff position of \$50,000 annually, the aggregate cost of the 22.4 additional personnel statewide was estimated at \$1,120,000.

Several observations may be made with respect to the assumptions employed by DOJ in arriving at this estimate of county sheriff personnel costs. In general, to the degree that some or all of the following considerations would apply to the actual implementation of the licensing provisions of the proposed legislation, the aggregate cost figures developed by DOJ would tend to be reduced.

First, the agency's estimate of county sheriffs' personnel costs is based on anticipated licensure volume during the first year of the program. While the Department estimates that 35,000 individuals might apply for licensure during the first year, it estimates that the number of applicants applying statewide in subsequent years could drop to 20,000 annually. As discussed earlier, when public agencies prepare to administer new programs, they do not typically make permanent staffing allocations based on a short-term spike in program activity but instead wait until more reliable workload experience has been generated. County sheriffs may find, for example, that less costly limited-term employees could be retained to address an expected initial license application surge. Thereafter, the on-going workload of new applications and routine renewals could be managed either with new staff authorized by the county board or by the realignment of duties of existing permanent or limited-term staff in the sheriff's office.

Second, nothing in the proposed legislation requires county boards to provide additional staff to county sheriffs to address the workload increases arising from the new licensure requirements. Even though the additional workload volume would have been aggregated into DOJ's statewide estimates, a number of counties will not experience sufficient additional licensure activity to justify an additional position. To the extent that county boards do not authorize additional positions for the county sheriff to address the additional workload, existing personnel would either have to be diverted from their current activities or have the licensing duties added to their current responsibilities. Consequently, no additional personnel costs would actually occur in such a county. Certain other county sheriffs, however, may experience sufficient additional workload that some additional staffing would be necessary. It is not certain the workload threshold at which an additional position or portion of a position would be required. In most cases, this determination would be based, in part, on the degree to which there appeared to be a reliable license fee revenue stream in the specific county. All of these types of policy and fiscal decisions would be made locally and may not, in the aggregate, translate into the 22.4 FTE additional county employee total estimated by DOJ.

Third, DOJ assumed that the additional first-year licensure workload staffing increase would require employees who were deputy sheriffs. While sworn law enforcement officers would appear to be required to undertake certain of the eligibility criteria investigations, general office employees could be used for other aspects of the process. To the extent that lower-cost, non-sworn personnel were utilized by county sheriffs, the first-year staffing costs identified by DOJ would be reduced.

Fourth, the average employee productivity standard of 1,560 hours per year utilized in DOJ's fiscal estimate is conservative and may not reflect actual county experience. To the extent that the average productivity of a county sheriff employee would be higher than that assumed by DOJ, fewer staff, in the aggregate, would be required to implement the provisions of the proposed legislation, and potential staffing costs would be decreased correspondingly.

Finally, the DOJ estimate assumes that each county would separately address the workload considerations arising under the provisions of the bill. The proposed legislation authorizes sheriffs to request (within four months of the effective date of the legislation), and county boards to approve, opting out of the licensing program. Further, counties are given the option of entering into cooperative agreements with neighboring counties to share or consolidate licensing responsibilities in the multi-county area. These cooperative arrangements could either enhance the affected county sheriffs' ability to manage the increased workload with existing county staff or realize certain economies of scale with respect to the need for additional new staff. Both these opt-out and cooperative agreement provisions could tend to reduce the overall costs likely to be incurred by county sheriffs in implementing the substitute amendment provisions. To the extent that citizens in opt-out counties travel to other counties to apply for concealed weapons licenses, however, personnel costs associated with administering the program for these applicants may simply shift from opt-out counties to participating counties.

To the extent that the above considerations would affect county sheriffs' implementation of the responsibilities imposed under the proposed legislation, the aggregate county sheriff personnel cost figures developed by DOJ might be reduced. Because each county would be affected by these considerations in a different manner, it is not possible to determine the aggregate amount of any such reductions.

While the preceding discussion suggests that county sheriff personnel costs, in aggregate, may be less than the totals estimated by DOJ, county sheriffs have also raised concerns that their involvement in the licensing process could be more time-consuming than recognized in the DOJ estimate.

As indicated above, the Department's estimate assumed that, on average, county sheriff personnel would expend one hour per application to carry out the sheriff's responsibilities under the proposed legislation. These new responsibilities would include: (1) ensuring that each application was properly completed; (2) collecting and transmitting all required application fees; (3) requesting a background check from DOJ for each application received; (4) determining that each applicant met the eligibility criteria for licensure enumerated in Attachment I; (5) informing applicants in writing as to the reason for any denial of an application; (6) maintaining the original record of all completed application forms and a record of all confirmation numbers and corresponding approval or nonapproval numbers received regarding background checks; (7) mailing a duplicate copy of each completed application form to DOJ; (8) taking a color photograph of successful applicants and producing tamper-proof concealed weapons licenses; (9) notifying DOJ within five days of each license issuance and providing the agency with the information required to be placed on the license document; and (10) providing necessary training to county licensing staff.

The one hour per license issuance standard developed by DOJ also included the time required for the sheriff to address the following additional responsibilities: (1) confirming the licensure status of licensees for other law enforcement agencies; (2) issuing emergency licenses; (3) determining in relevant cases whether a license must be suspended or revoked; (4) notifying licensees of the suspension or revocation and collecting such licenses; (5) receiving and tabulating updated information from licensees regarding change of address or of criminal or drunk driving charges against licensees; (6) replacing lost or destroyed licenses; (7) mailing expiration notices and renewal forms to licensees every five years; and (8) providing annual statistical reports to DOJ.

Some sheriffs have advised that the execution of these responsibilities under the proposed legislation would entail a workload commitment in excess of the one hour per licensee average estimated by DOJ. In particular, some sheriffs have cited the required background investigation provisions of the legislation as the types of responsibilities that could require the commitment of additional staff time. Without actual workload experience, however, it is difficult to estimate how much time these new duties would actually take for county sheriffs to administer. Further, if the state created a concealed weapons program, it is likely that the average time to complete these duties would vary by county. To the extent that license processing in any county required more than one hour on average, the county sheriff's workload would increase proportionately. This increase, in turn, would increase pressure on the county either to provide additional staffing

resources (thereby increasing estimated local government costs) or to reallocate current staff from existing responsibilities. If this pattern were repeated in several counties of the state, it would put upward pressure on the county personnel costs identified by DOJ.

As discussed below, if all 72 Wisconsin counties participate in the licensure program, county sheriffs could receive 37,800 applications in the first year of the program and 14,500 applications annually in succeeding years of the program. If this projection proves accurate, the first year application volume would be higher than that used by DOJ. This increased application volume would put increased pressure on county boards to either provide additional staffing resources or to reallocate current staff from existing responsibilities during the first year of the program. Projected application volume in succeeding years is below DOJ's estimates and would tend to reduce pressure on county boards to provide additional resources.

Estimated Additional Clerk of Court Costs. DOJ estimated that there would be at least 190,316 court events annually that clerks of court would be required to report to DOJ under SSA 1. The Department estimated that each contact would require five minutes to process, resulting in an annual additional workload of 15,860 hours. DOJ then applied the same aggregate employee productivity standard of 1,560 hours per year used to project county sheriffs' costs to determine an aggregate statewide court clerk workload increase of approximately 10.0 additional clerical positions. Further, DOJ assumed that the additional workload would be processed by individuals making an estimated \$30,000 annually, to arrive at a first year estimated aggregate cost of \$300,000.

As with county sheriff personnel costs, several observations may be made with respect to the assumptions employed by DOJ in arriving at this estimate of county clerk of court costs. First, nothing in the proposed legislation requires county boards to provide additional staff to clerks of court to address the workload increases arising from the new notification requirements. Second, the average employee productivity standard of 1,560 hours per year is conservative and may not reflect actual county experience. To the extent that the average productivity of an employee would be higher than that assumed by DOJ, fewer staff, in the aggregate would be required to provide the notification mandated under the substitute amendment.

While the above considerations would tend to reduce the cost estimate produced by DOJ, a review of calendar year 2002 court data would suggest that the number of court events for which clerks of court would have to provide notification to DOJ is likely to be significantly higher than projected by DOJ. Actual reporting experience in 2002 would suggest that more than 263,000 rather than 190,300 notifications would have to be provided to DOJ. This higher volume of reportable events would put upward pressure on DOJ's cost estimate.

Currently, SSA 1 does not provide that the notifications be made by clerks of court through CCAP. State administrators of CCAP indicate that were this to occur, six months would be required to implement changes to the system to accommodate the new notification provisions. Potential system redesign costs of \$125,000 have been identified for outside contract programmers to: (1) make the necessary programming changes to CCAP; and (2) develop the interface with DOJ

to permit CCAP to provide automated notices of court events. This cost projection assumes that DOJ would be available to work with CCAP on developing the interface. [Any change permitting automated notification of court events through CCAP to DOJ would not address notifications under SSA 1 from municipal courts or tribal courts, which do not utilize CCAP, as well as non-participating Wisconsin counties.]

County Equipment Costs. In its fiscal estimate, DOJ estimated that \$32,000 per unit would be required to acquire the networked photo identification equipment required by the legislation. This cost estimate has been confirmed with DOT. Based on this per unit cost, DOJ estimated that each county would acquire one such unit for a first-year, one-time equipment cost of \$2,304,000 statewide. This estimate, however, was based on the language of the legislation, as originally introduced. That language required the license to be produced using the same or similar equipment used by DOT to produce a motor vehicle operator's license.

Under SSA 1, however, counties would no longer be required to obtain photo identification equipment that is the same or similar equipment used by DOT to produce an operator's license. Counties would be authorized to acquire stand-alone photo identification equipment. In 2002, the manufacturer of DOT's networked equipment quoted a cost of approximately \$19,000 per unit to acquire a stand-alone workstation, including one-time installation and training costs. One-time statewide software expenses of \$113,000 were also identified. Modest, ongoing annual maintenance and software support costs would continue thereafter. If all 72 counties participated in a statewide purchase of stand-alone equipment, based on these 2002 cost estimates for such equipment, the first-year statewide equipment cost would be \$1,481,000. These equipment costs would be funded through the license issuing fee established by each participating county sheriff.

To the extent that counties opted out of the licensing program or entered into cooperative agreements with neighboring counties to share or consolidate licensing responsibilities in the multi-county area, the statewide equipment cost figures identified above would be reduced correspondingly.

Estimated License Application Fee Revenues. Under the substitute amendment, each participating sheriff would set a license fee that could not exceed the sheriff's cost of issuing a concealed weapons license, or \$75, whichever amount was less. The DOJ fiscal estimate assumed that during the first year of the program: (1) all 72 counties would issue concealed weapons licenses; (2) all 72 counties would set the license fee at \$75; and (3) a total of 35,000 applicants would apply. As a result of these assumptions, DOJ estimated first year county revenues of \$2,625,000.

Assuming that the participation rate of Wisconsin citizens applying for concealed weapons licenses would mirror the participation rate in Kentucky during the first year of its program, an estimated 37,800 Wisconsin citizens would apply for a concealed weapons license in the first year, if all 72 Wisconsin counties participated. Based on a uniform county license fee of \$75, statewide license revenue under the program is estimated at \$2,835,000.

If the license application rate in subsequent years in Wisconsin would mirror the rates observed in Kentucky, a state of comparable population, or Minnesota, a state with comparable demographics, it is estimated that 14,500 Wisconsin citizens would apply for a concealed weapons license in succeeding years under the program. [It should be noted that the Minnesota data may be subject to change, as the impact of recent law changes in that state's concealed weapons licensing regulations take effect.] Based on 72 Wisconsin counties continuing to charge \$75 per license application, it is estimated that the second year (and likely on-going annual) license revenues under the program would be \$1,087,500. If DOJ's projections of 20,000 license applications in the second and subsequent years prove to be more accurate, then revenues of \$1,500,000 statewide are estimated.

In the event that any Wisconsin counties opted out of the licensing program, first year and subsequent year revenues could be less than the amounts estimated here. Finally, if Minnesota's experience with its concealed weapons program would bear out in Wisconsin, there could be a wide variation in participation rates from county to county under the program with a commensurate variation in revenue received by participating counties.

Prepared by: Paul Onsager

ATTACHMENT I

Detailed Eligibility Requirements to Obtain a Concealed Weapon

An individual is eligible for a concealed weapons license under the substitute amendment if all of the following apply:

Applicant not Prohibited from Possessing a Firearm Under State or Federal Law

1. The individual is not prohibited under federal law from possessing a firearm that has been transported in interstate or foreign commerce.
2. The individual is not prohibited from possessing a firearm under state law.

Applicant Not Subject to Disqualifying Criminal Charge or Conviction

3. During the preceding three years, the individual has not been convicted for any violation, or for the solicitation, conspiracy, or attempt to commit any violation of Wisconsin's Uniform Controlled Substances Act (Chapter 961), or of a federal law or a law of another state that is comparable to any provision of Chapter 961.

4. Within the preceding three years, the individual was not convicted of a misdemeanor crime of violence or was not serving a sentence, on probation, or subject to a dispositional order under Wisconsin's Juvenile Justice Code for committing a misdemeanor crime of violence. A misdemeanor crime of violence means a misdemeanor violence of: (a) Chapter 940 (crimes against life and bodily security); (b) Chapter 941 (crimes against public health and safety); (c) Chapter 948 (crimes against children); (d) s. 947.013 (harassment); or (e) s. 947.01 (disorderly conduct). A misdemeanor crime of violence also includes a crime under federal law or the law of another state that is comparable to the misdemeanor crimes listed under (a) through (e) above.

5. The individual has not been convicted of: (a) intentionally falsely swearing in regards to a concealed weapons license application or intentionally making a false statement in regards to the issuance of an emergency concealed weapons license; (b) intentionally violating the requirement that within 10 days after being charged under federal law or the law of another state with any crime or any drunk driving offense, a concealed weapons licensee must notify the sheriff of the county that is issued his or her license of the charge; or (c) intentionally failing to relinquish or deliver a concealed weapons license to a sheriff when directed by the sheriff as a result of the revocation or suspension of the license.

6. The individual has not been charged with a felony or a misdemeanor crime of violence for which the prosecution was suspended under a deferred prosecution agreement unless three years have elapsed since the date of the agreement.

Applicant Not Disqualified Due to Substance Abuse

7. During the preceding three years, the individual has not civilly committed under state law for being drug dependent.

8. The individual does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. A person is presumed chronically and habitually to use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if, within the preceding three years, any of the following applies: (a) the individual has been committed for involuntary treatment of alcoholism under state law; (b) the individual has been convicted of operating or going armed with a firearm while under the influence of an intoxicant; or (c) in two or more cases arising out of separate incidents, a court has found the individual to have committed a drunk driving offense. A drunk driving offense means: (1) a violation of s. 346.63 (operating under influence of intoxicant or other drug) or a local ordinance in conformity with that section; (2) a violation of a law of a federally recognized American Indian tribe or band in Wisconsin in conformity with s. 346.63; or (3) a violation of the law of another jurisdiction that prohibits the use of a motor vehicle while intoxicated, while under the influence of a controlled substance, a controlled substance analog, or a combination thereof, with an excess or specified range of alcohol concentration, or while under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws.

Applicant Not Subject to Mental Health Disqualifier

9. The individual has not been involuntarily committed for treatment under state law due to mental illness or a developmental disability, or if the individual has been involuntarily committed for treatment under state law due to mental illness or a developmental disability, he or she shows, through evidence from a psychiatrist licensed in this state, that he or she has not been disabled due to mental illness or a developmental disability for at least five years.

10. The individual has not been found incompetent under Chapter 880 of the statutes (Guardians & Wards), or if the individual has been found incompetent under Chapter 880, he or she was subsequently found to be competent and at least five years have elapsed from the date that he or she was found to be competent.

11. The individual was not the subject of a protective placement under state law as a minor for a developmental disability unless at least five years have elapsed from the date on which his or her protective placement ended.

12. The individual has not been found incompetent to stand trial under state law or, if the individual has been found incompetent to stand trial under state law one of the following applies: (a) he or she was subsequently found to be competent and at least five years have elapsed from the date that he or she was found to be competent; or (b) he or she was not subsequently found to be

competent and he or she shows through evidence from a psychiatrist licensed in Wisconsin that he or she has not been disabled due to mental illness or a developmental disability for at least five years.

13. The individual has not been found not guilty by reason of mental disease or defect under state law or, if the individual has been found not guilty by reason of mental disease or defect under state law, he or she presents evidence from a psychiatrist licensed in this state that he or she has not been disabled due to mental illness or a developmental disability for at least five years.

Firearm Training Requirement Satisfied

14. The individual has done one of the following: (a) successfully completed a National Rifle Association (NRA) firearm training or firearm safety course or class; (b) successfully completed a firearm training or firearm safety course or class conducted by an instructor certified either by the state in which the course or class was conducted or by the NRA; (c) successfully completed a firearm safety or firearm training course or class that is available to the general public and that is offered by a law enforcement agency, a private or public school, institution, or organization, or a firearm training school, if the course or class uses instructors certified by the NRA or Wisconsin's Department of Justice or if the curriculum meets the minimum requirements of Wisconsin's Law Enforcement Standards Board; (d) successfully completed a firearm safety or firearm training course or class offered for law enforcement officers, correctional officers, special deputies, private detectives, or other security or law enforcement personnel; or (e) participated in organized shooting competitions or military training that gave the applicant experience with firearms that the sheriff determines is substantially equivalent to any course or class specified in (a) through (d) above.

Additional Eligibility Requirements

15. The individual does not have a physical disability that prevents him or her from safely handling a weapon.

16. The individual is not the subject of any pending civil or criminal case, the disposition of which could disqualify him or her from having a license.

17. The individual has not previously submitted an application for a concealed weapons license to any county and had the application denied, unless each reason for the denial is no longer applicable because of changed circumstances.

18. The individual has not had a concealed weapons license revoked, unless each reason for the revocation is no longer applicable because of changed circumstances.

19. The individual is at least 21 years of age.

20. The individual is a Wisconsin resident.

ATTACHMENT II

Modifications to Criminal Penalties Relating to Concealed Weapons

Law Changes Permitting Individuals to Carry Concealed Weapons				
Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under SSA 1	Penalty Under SSA 1
941.23	No person except a peace officer may go armed with a concealed and dangerous weapon.	Class A Misdemeanor-A fine not to exceed \$10,000 or imprisonment not to exceed 9 months or both	Provide that licensees and out-of-state licensees may go armed with a concealed handgun, an electric weapon, a tear gas gun, a knife other than a switchblade knife, or a billy club. Further provide that licensees and out-of-state licensees may carry a concealed weapon anywhere in Wisconsin except as provided in exceptions 1 through 12 below. Peace officers would not be subject to these exceptions. Provide that non-licensees may go armed with such concealed weapons in his or her dwelling or place of business or on land that he or she owns, leases, or legally occupies, unless he or she is prohibited under federal or state law from possessing that weapon. [Sections 25-28 and 175.50(2g)(a) & (16)(d)]	No penalty
None	None	None	Exception #1: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a place that has been declared a nuisance under Chapter 823 (Nuisances). [175.50(16)(a)(1)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]
None	None	None	Exception #2: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a police station, sheriff's office, or state patrol station unless he or she would be a peace officer acting within the scope of his or her employment. [175.50(16)(a)(2)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]
None	None	None	Exception #3: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a prison, jail, house of correction, or secured correctional facility. [175.50(16)(a)(3)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]
None	None	None	Exception #4: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a courthouse, except that a judge who is a licensee may carry a permitted concealed weapon in a courthouse in which he or she is presiding and may permit in writing any other licensee or out-of-state licensee to carry a concealed weapon in a courthouse in which he or she is presiding. [175.50(16)(a)(4)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under SSA 1	Penalty Under SSA 1
	None	None	Exception #5: Neither a licensee nor an out-of-state licensee may carry a concealed weapon to a place at which a school, college, or professional athletic event is taking place, unless the event is related to firearms and the individual is a participant in the event. [175.50(16)(a)(5)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]
	None	None	Exception #6: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a school administration building. [175.50(16)(a)(6)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]
	None	None	Exception #7: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in any premises for which a Class "B" or "Class B" license or permit has been issued under Chapter 125 (Alcohol Beverages), unless one of the following applies: (1) an exception from this prohibition already exists for the individual under current law; (2) the individual is carrying a handgun and his or her possession of the handgun is already excepted from this prohibition under current law; or (3) the sale of intoxicating liquors or fermented malt beverages or both on those premises accounts for not more than 50% of the proprietor's receipts from those premises. [175.50(16)(a)(7)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]
	None	None	Exception #8: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in an airport unless the weapon is encased for shipment as baggage to be transported by aircraft. [175.50(16)(a)(8)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]
	None	None	Exception #9: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in the following places in which carrying the weapon is prohibited by federal law: (1) within a federal facility; (2) within a school zone except that firearms may be possessed: (a) on private property that is not a part of the school grounds; (b) unloaded and within a locked container within a vehicle; (c) by an individual for use in a program approved by the school; (d) by a law enforcement officer; (e) by an individual while traversing school premises for the purpose of gaining access to a hunting area; and (f) if the entry on school grounds is authorized by school authorities; (3) within or while entering the sterile area of an airline terminal or aboard or while attempting to board an aircraft; and (4) within certain national park areas. [175.50(16)(a)(9)]	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under SSA 1	Penalty Under SSA 1
	None	None	<p>Exception #10: Neither a licensee nor an out-of-state licensee may carry a concealed weapon in a school zone as defined by state statute, unless the individual is not in or on the grounds of a school as defined by state statute, and the individual: (1) is in a motor vehicle or on a snowmobile or bicycle; (2) has exited a motor vehicle and is encasing the handgun or storing it in the motor vehicle; (3) is traveling directly to any person's private property from his or her place of employment or business, from any person's private property, or from a place outside of the school zone; (4) is traveling directly to his or her place of employment or business from another place of his or her employment or business, from any person's private property, or from a place outside of the school zone; (5) is traveling directly to a place outside of the school zone from another place outside of the school zone, from any individual's private property, or from his or her place of employment or business; or (6) is subject to a current law exception for possession of a firearm in a school zone. [175.50(16)(b)]</p>	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]
	None	None	<p>Exception #11: Neither a licensee nor an out-of-state licensee may carry a concealed weapon on school premises as defined by state statute, unless the individual would be permitted to possess or go armed with a dangerous weapon on school premises under current law. [175.50(16)(c)]</p>	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]
941.20(1)(b)	No person may operate or go armed with a firearm while under the influence of an intoxicant.	Class A Misdemeanor-A fine not to exceed \$10,000 or imprisonment not to exceed 9 months or both	<p>Exception #12: Provide that the current law prohibition on operating or going armed with a firearm while under the influence of an intoxicant would continue to apply to licensees and out-of-state licensees. [175.50(2g)(a)]</p>	Class B Misdemeanor-A fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both [175.50(17)(b)]
941.235(1)	Generally, no person may go armed with a firearm in any building owned or leased by the state or any political subdivision of the state.	Class A Misdemeanor-A fine not to exceed \$10,000 or imprisonment not to exceed 9 months or both	Provide that this prohibition does not apply if the firearm is a handgun possessed by a licensee or out-of-state licensee. [Sections 30 and 31]	Exempted behavior would no longer be subject to a penalty under this statutory section, but see exceptions #2, #3, #4, #6, #8 and #11 above.
167.31(3)(a)	No person may place, possess or transport a firearm, bow or crossbow	Fined not more than \$1,000 or imprisoned not more than 90 days	Provide that this prohibition does not apply to the placement, possession, transportation, or loading of a handgun by a licensee or out-of-state licensee. [Section 14]	Exempted behavior would no longer be subject to a penalty under this statutory section, but see exceptions #8 and #9

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under SSA 1	Penalty Under SSA 1
	in or on an aircraft, unless the firearm is unloaded and encased or unless the bow or crossbow is unstrung or is enclosed in a carrying case.	or both		above.
941.237(2)	Generally, no person may intentionally go armed with a handgun on any premises for which a Class "B" or "Class B" license has been issued under Chapter 125 (Alcohol Beverages).	Class A Misdemeanor--A fine not to exceed \$10,000 or imprisonment not to exceed 9 months or both	Provide that this prohibition does not apply to a licensee or out-of-state licensee. [Section 32]	Exempted behavior would no longer be subject to a penalty under this statutory section, but see exception #7 above.
167.31(3)(b)	No person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from an aircraft.	Fined not more than \$1,000 or imprisoned not more than 90 days or both	Provide that this prohibition does not apply to the placement, possession, transportation, or loading of a handgun by a licensee or out-of-state licensee. [Section 14]	Exempted behavior would no longer be subject to a penalty under this statutory section, but see exceptions #8 and #9 above.
948.605(2)(a)	Generally, no person may knowingly possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.	Class I Felony--A fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months or both	Provide that this prohibition does not apply to the possession of a handgun by a licensee or out-of-state licensee. [Section 37]	Exempted behavior would no longer be subject to a penalty under this statutory section, but see exception #10 above.
948.61	Generally, no person may knowingly possess or go armed with a dangerous weapon on school premises.	Class A Misdemeanor--A fine not to exceed \$10,000 or imprisonment not to exceed 9 months or both, or a Class I Felony (if the violation is the person's 2nd or subsequent violation within a five year period, as measured from the dates the violations occurred)--a	Provide that this prohibition does not apply to the possession of an electric weapon, a tear gas gun, a knife other than a switchblade or a billy club by a licensee or out-of-state licensee. [Section 38]	Exempted behavior would no longer be subject to a penalty under this statutory section, but see exception #11 above.

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under SSA 1	Penalty Under SSA 1
941.295(1)	Generally, no person may sell, transport, manufacture, possess or go armed with any electric weapon.	fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months or both	Provide that the prohibition on possessing or going armed with an electric weapon does not apply to licensees, out-of-state licensees or individuals going armed with an electric weapon in his or her own dwelling or place of business or on land that he or she owns, leases, or legally occupies, unless he or she is prohibited under federal or state law from possessing that weapon. Further provide that the prohibition on transporting an electric weapon does not apply to a licensee, out-of-state licensee, or to an individual who transports an electric weapon from any of the following places to any of the following places: (1) his or her dwelling; (2) his or her own place of business; (3) land that he or she owns, leases, or legally occupies. Finally, provide that manufacturers or sellers of electric weapons may engage in otherwise prohibited conduct regarding such weapons unless they have the intent to provide such weapons to individuals not permitted to possess them under state law. [Sections 33-35]	Exempted behavior would no longer be subject to a penalty.
29.089(2)	No person may generally have in his or her possession or under his or her control a firearm on land located in state parks or state fish hatcheries unless the firearm is unloaded and enclosed within a carrying case.	Forfeiture of not more than \$100	Provide that this prohibition does not apply if the firearm is a handgun possessed by a licensee or out-of-state licensee. [Section 2]	Exempted behavior would no longer be subject to a penalty.
29.091; 29.621(4)	No person may have possession or control of any gun, firearm, bow or crossbow within any wildlife refuge unless the gun or firearm is unloaded, the bow or crossbow is unstrung and the gun,	Forfeiture of not more than \$100	Provide that this prohibition does not apply to the possession of a handgun by a licensee or out-of-state licensee. [Sections 3-6]	Exempted behavior would no longer be subject to a penalty.

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under SSA 1	Penalty Under SSA 1
	firearm, bow or crossbow is enclosed within a carrying case.			
167.31(2)(a)	No person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or enclosed in a carrying case. [s. 167.31(2)(a)]	Forfeiture of not more than \$100	Provide that this prohibition does not apply to the placement, possession, transportation, or loading of a handgun by a licensee or out-of-state licensee. [Section 14]	Exempted behavior would no longer be subject to a penalty.
167.31(2)(b)	No person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded and encased or unless the bow or crossbow is unstrung or is enclosed in a carrying case.	Forfeiture of not more than \$100	Provide that this prohibition does not apply to the placement, possession, transportation, or loading of a handgun by a licensee or out-of-state licensee. [Section 14]	Exempted behavior would no longer be subject to a penalty.
167.31(2)(c)	No person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.	Forfeiture of not more than \$100	Provide that this prohibition does not apply to the placement, possession, transportation, or loading of a handgun by a licensee or out-of-state licensee. [Section 14]	Exempted behavior would no longer be subject to a penalty.
23.33(3)(e)	No person may operate an all-terrain vehicle with any firearm in his or her possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is unstrung or enclosed in a carrying case.	Forfeiture of not more than \$250	Provide that this prohibition does not apply to the possession of a handgun by a licensee or out-of-state licensee. [Section 1]	Exempted behavior would no longer be subject to a penalty.

Administration of a Concealed Weapons License Program

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under SSA 1	Penalty Under SSA 1
	None	None	False statement penalty #1: An applicant must swear under oath that the information provided in the concealed weapons application and any document submitted with the application is true and complete to the best of his or her knowledge. [175.50(6)]	If an applicant violated this requirement, he or she would be fined not less than \$500 nor more than \$10,000 and could be imprisoned for not more than 9 months. [175.50(17)(c)]
	None	None	False statement penalty #2: A licensee must submit a notarized affidavit swearing under oath that the information provided in the renewal application is true and complete to the best of his or her knowledge and that he or she meets the eligibility criteria of Attachment I. [175.50(15)(b)(2)]	If a licensee violated this requirement, he or she would be fined not less than \$500 nor more than \$10,000 and could be imprisoned for not more than 9 months. [175.50(17)(c)]
	None	None	False statement penalty #3: An applicant may not intentionally make a false statement to a sheriff in requesting or in connection with the issuance of an emergency license. [175.50(17)©]	An applicant violating this prohibition would be fined not less than \$500 nor more than \$10,000 and could be imprisoned for not more than 9 months. [175.50(17)(c)]
	None	None	Within 10 days after being charged under federal law or the law of another state with any crime or any drunk driving offense, a licensee must notify the sheriff of the county of issue of the charge. [175.50(12)(a)]	Any licensee intentionally violating this requirement would be fined not less than \$500 nor more than \$10,000 and could be imprisoned for not more than 9 months. [175.50(17)(d)]
	None	None	Within 7 days after receiving a notice of license suspension or revocation from a sheriff, the licensee would be required to deliver the license document personally or by certified mail to the sheriff. [175.50(14)(b)(2)]	Any licensee intentionally violating this requirement would be fined not less than \$500 nor more than \$10,000 and could be imprisoned for not more than 9 months. [175.50(17)(e)]
	None	None	Provide that a licensee must carry his or her license and that an out-of-state licensee must carry his or her out-of-state authorization at all times during which he or she is going armed with a concealed weapon. [175.50(2g)(b)]	Forfeiture of not more than \$25 [175.50(17)(a)]
	None	None	Provide that if he or she is carrying a concealed weapon, a licensee must display his or her license and an out-of-state licensee must display his or her out-of-state authorization to a law enforcement officer upon the request of the law enforcement officer. [175.50(2g)(c)]	Forfeiture of not more than \$25 [175.50(17)(a)]

Statutory Section	Current Law Prohibition	Current Law Penalty	Change Under SSA 1	Penalty Under SSA 1
946.32(1)(a)	No individual under oath or affirmation may make or subscribe a false statement which he or she does not believe is true, when such oath or affirmation is authorized or required by law or is required by any public officer or governmental agency as a prerequisite to such officer or agency taking some official action.	Class H Felony--A fine not to exceed \$10,000 or imprisonment not to exceed 6 years or both	Provide that this prohibition does not apply to false statements made by applicants or licensees under the concealed weapons program. [Section 36]	False statements by applicants and licensees under the concealed weapons program would no longer be penalized under this statutory section, but see false statement penalties #1 through #3 above for substitute provisions.
946.32(1)(b)	No individual may make or subscribe 2 inconsistent statements under oath or affirmation in regard to any matter respecting which an oath or affirmation is, in each case, authorized or required by law or required by any public officer or governmental agency as a prerequisite to such officer or agency taking some official action, under circumstance which demonstrate that the witness or subscriber knew at least one of the statements to be false when made.	Class H Felony--A fine not to exceed \$10,000 or imprisonment not to exceed 6 years or both	Provide that this prohibition does not apply to false statements made by applicants or licensees under the concealed weapons program. [Section 36]	False statements by applicants and licensees under the concealed weapons program would no longer be penalized under this statutory section, but see false statement penalties #1 through #3 above for substitute provisions.
946.32(2)	No individual under oath or affirmation may make or subscribe a false statement which he or she does not believe is true.	Class A Misdemeanor--A fine not to exceed \$10,000 or imprisonment not to exceed 9 months or both	Provide that this prohibition does not apply to false statements made by applicants or licensees under the concealed weapons program. [Section 36]	False statements by applicants and licensees under the concealed weapons program would no longer be penalized under this statutory section, but see false statement penalties #1 through #3 above for substitute provisions.